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**AMENDMENT UNDER 37 CFR 41.50(b): Claims - Remarks – page 1**

Appellant respectfully submits that the present amendment under 37 C.F.R. 41.50(b) effects the changes described below, that all said changes are described, and that no new matter is introduced by amendment.

Claim 40 has:

1. the word "business" prior the word 'method' struck from the preamble;
2. "intended to facilitate" replaced with 'enabling' in the preamble;
3. 'by auction' inserted after "A business method ~~intended to facilitate enabling~~ flexible terms commodities trading" in the preamble to clarify that the intended trading is conducted by auction;
4. "desired" replaced by 'offered' twice in the step of "providing the option of provision of a sample of a particular commodity ... by a prospective seller" in rectification of inadvertent error;
5. 'category' inserted after "specific commodity" in the step of "providing, upon a web site ... for initiating an open offer";
6. 'conducting a commodities auction by:' inserted prior the step of "posting upon said web site ... when initiated by a prospective buyer" to clarify or that an auction of a lot of commodities, is conducted;

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7. "an" replaced with 'said' in between "scheduling" and "auction" to recognize proper antecedent basis in the clause beginning with "scheduling";
8. 'sale of said lot with' inserted prior, and 'inclusive of delivery and payment' inserted after "the matching in all said terms", 'in accordance with said terms added after "said specified lot" in the last clause to clarify that the auction is concluded with the sale of the lot specified in the auction when there is a match of all terms between an offer and a bid "both concerned with said specified lot".

**Claim 41** has: 'sale of said lot with'; inserted between "said listing following" and "indication of the matching" to clarify that the specified lot is sold at auction before depositing of the listing;

In claims **53, 54, 57, 59, 60, and 63** the phrase "may choose" is replaced by 'presented with a choice to select' in accordance with the suggestion of the Board in elimination of the indefinite language in claims 53 – 64.

In claim **69** the word 'with' is inserted between "is provided" and "a proportion" in correction of a minor error in grammar.

In claim **75** the word 'with' is inserted between "is provided" and "a proportion" in correction of a minor error in grammar.

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**40. (currently amended)** A business method ~~intended to facilitate enabling~~ flexible terms commodities trading by auction comprising the steps of:

providing, upon a web site accessible upon the world wide web, a proposal format in which the type of auction can be specified in addition to the particular commodity, weight, price, and specific commodity category dependent quality characteristics desired by a prospective buyer in completion of a submission for initiating an open bid;

providing the option of provision of a model of a particular commodity desired for purposes of indicating the quality desired by a prospective buyer;

providing, upon a web site accessible upon the world wide web, a proposal format in which the type of auction can be specified in addition to the particular commodity, weight, price, and specific commodity category dependent quality characteristics offered by a prospective seller in completion of a submission for initiating an open offer;

providing the option of provision of a sample of a particular commodity desired offered for purposes of indicating the quality desired offered by a prospective seller;

conducting a commodities auction by:

posting upon said web site a listing for a specified lot of a particular commodity in accordance with a completed proposal submission detailing a plurality of terms including weight, price, quality characteristics, delivery and payment comprising an open offer of said specified lot when initiated by

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a prospective seller and comprising an open bid of said specified lot when initiated by a prospective buyer;

scheduling an said auction of said specified lot by posting a plurality of schedule dates including but not restricted to commencement and conclusion dates between which responses to said listing will be received;

posting upon said web site, in association with said listing, counter bids received in response to an open offer and counter offers received in response to an open bid which vary in any of the terms included in said plurality of terms detailed in said listing;

posting upon said web site, in association with said listing, any offer indications by said prospective seller in response to posted counter bids and any bid indications by said prospective buyer in response to posted counter offers signifying a modification of at least one term in said listing;

indicating upon said web site, in association with said listing, sale of said lot with the matching in all said terms inclusive of delivery and payment between any offer and any bid both concerned with said specified lot in accordance with said terms.

**41. (Currently Amended)** The business method of **claim 40** further including the step of depositing, upon said web site, said listing following sale of said lot with indication of the matching in all said terms between any offer and any bid both concerned with said specified lot.

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**42. (Original)** The business method of **claim 40** wherein said web site providing said proposal format in which the type of auction can be specified by a prospective buyer in completion of a submission for initiating an open bid is different than said web site providing said proposal format in which the type of auction can be specified by a prospective seller in completion of a submission for initiating an open offer.

**43. (Original)** The business method of **claim 40** wherein said web site providing said proposal format in which the type of auction can be specified by a prospective buyer in completion of a submission for initiating an open bid is the same as said web site providing said proposal format in which the type of auction can be specified by a prospective seller in completion of a submission for initiating an open offer.

**44. (Original)** The business method of **claim 40** further including the step of providing notification to subscribers of listings identified by commodity category as being of interest to said subscribers.

**45. (Original)** The business method of **claim 44** wherein said notification is provided by electronic means inclusive of e-mail.

**46. (Original)** The business method of **claim 40** wherein said web site providing said proposal format in which the type of auction can be specified by a prospective buyer in completion of a submission for initiating an open

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bid provides registration access means for registration of said prospective buyer with an auction house maintaining said web site.

**47. (Original)** The business method of **claim 46** wherein registration of said prospective buyer requires payment of a fee to said auction house by said prospective buyer.

**48. (Original)** The business method of **claim 40** wherein said web site providing said proposal format in which the type of auction can be specified by a prospective seller in completion of a submission for initiating an open offer provides registration access means for registration of said prospective seller with an auction house maintaining said web site.

**49. (Original)** The business method of **claim 48** wherein registration of said prospective seller requires payment of a fee to said auction house by said prospective seller.

**50. (Original)** The business method of **claim 40** wherein said web site providing said proposal format in which the type of auction can be specified by a prospective buyer in completion of a submission for initiating an open

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bid provides directory access means for accessing a directory comprised of a plurality of commodity categories.

**51. (Original)** The business method of **claim 50** wherein an auction house maintaining said web site provides listings pertaining to a particular commodity category chosen from said pluraltiy of commodity categories to said prospective buyer by subscription.

**52. (Original)** The business method of **claim 50** wherein said subscription requires payment of a fee by said prospective buyer to an auction house providing said listings.

**53. (Currently Amended)** The business method of **claim 40** wherein said prospective seller, in specification of the type of auction, may choose is presented with a choice to select upward, open, unconstrained bidding wherein said listing specifies an initial minimum price and bidding within the time between said commencement and conclusion dates is otherwise unconstrained with regard to price.

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**54. (Currently Amended)** The business method of claim 40 wherein said prospective seller, in specification of the type of auction, ~~may choose is presented with a choice to select~~ upward, incremental, unconstrained bidding wherein said listing specifies an initial minimum price and bidding within the time between said commencement and conclusion dates is otherwise only constrained with regard to price by the progressive increase of the same in predetermined increments.

**55. (Original)** The business method of claim 54 wherein said predetermined increments constraining said progressive increase of price are a function of time.

**56. (Original)** The business method of claim 54 wherein said predetermined increments constraining said progressive increase of price are a function of the number of responses received.

**57. (Currently Amended)** The business method of claim 40 wherein said prospective seller, in specification of the type of auction, ~~may choose is presented with a choice to select~~ downward, incremental, constrained bidding wherein said listing specifies an initial maximum price and bidding within the time between said commencement and conclusion dates is

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constrained with regard to price by the progressive decrease of the same in predetermined increments and by a predetermined minimum price which is not posted in said listing.

**58. (Original)** The business method of **claim 57** wherein said predetermined increments constraining said progressive decrease of price are a function of time.

**59. (Currently Amended)** The business method of **claim 40** wherein said prospective buyer, in specification of the type of auction, may choose is presented with a choice to select downward, open, unconstrained offering wherein said listing specifies an initial maximum price and offering within the time between said commencement and conclusion dates is otherwise unconstrained with regard to price.

**60. (Currently Amended)** The business method of **claim 40** wherein said prospective buyer, in specification of the type of auction, may choose is presented with a choice to select downward, incremental, unconstrained offering wherein said listing specifies an initial maximum price and offering within the time between said commencement and conclusion dates is otherwise unconstrained with regard to price by the progressive decrease of the same in predetermined increments.

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**61. (Original)** The business method of claim 60 wherein said predetermined increments constraining said progressive decrease of price are a function of time.

**62. (Original)** The business method of claim 60 wherein said predetermined increments constraining said progressive decreases of price are a function of the number of responses received.

**63. (Currently Amended)** The business method of claim 40 wherein said prospective buyer, in specification of the type of auction, may choose is presented with a choice to select upward, incremental, constrained bidding wherein said listing specifies an initial minimum price and offering within the time between said commencement and conclusion dates is constrained with regard to price by the progressive increase of the same in predetermined increments and by a predetermined maximum price which is not posted in said listing.

**64. (Original)** The business method of claim 63 wherein said predetermined increments constraining said progressive increase of price are a function of time.

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**65. (Original)** The business method of **claim 40** wherein said model of a particular commodity is provided by said prospective buyer directly to prospective sellers.

**66. (Original)** The business method of **claim 40** wherein said model of a particular commodity is provided by said prospective buyer to an auction house maintaining said web site.

**67. (Original)** The business method of **claim 66** wherein said model of a particular commodity provided by said prospective buyer to said auction house is tested by a laboratory and testing results are posted on said web site in association with said listing.

**68. (Original)** The business method of **claim 66** wherein said model of a particular commodity provided by said prospective buyer to said auction house is provided to prospective sellers by said auction house.

**69. (Currently Amended)** The business method of **claim 68** wherein said model of a particular commodity provided by said prospective buyer to said auction house is divided proportionally by said auction house in

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accordance with a number of prospective sellers each of whom is provided with a proportion of said model by said auction house.

**70. (Original)** The business method of **claim 68** wherein said model of a particular commodity provided by said prospective buyer to said auction house is comprised of a discrete number of pieces each esteemed by said auction house to possess substantially equivalent quality and prospective sellers are each provided with one said piece of said model by said auction house.

**71. (Original)** The business method of **claim 40** wherein said sample of a particular commodity is provided by said prospective seller directly to prospective buyers.

**72. (Original)** The business method of **claim 40** wherein said sample of a particular commodity is provided by said prospective seller to an auction house maintaining said web site.

**73. (Original)** The business method of **claim 72** wherein said sample of a particular commodity provided by said prospective seller to said auction

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house is tested by a laboratory and testing results are posted on said web site in association with said listing.

**74. (Original)** The business method of **claim 72** wherein said sample of a particular commodity provided by said prospective seller to said auction house is provided to prospective buyers by said auction house.

**75. (Currently Amended)** The business method of **claim 74** wherein said sample of a particular commodity provided by said prospective seller to said auction house is divided proportionally by said auction house in accordance with a number of prospective buyers each of whom is provided with a proportion of said sample by said auction house.

**76. (Original)** The business method of **claim 74** wherein said sample of a particular commodity provided by said prospective seller to said auction house is comprised of a discrete number of pieces each esteemed by said auction house to possess substantially equivalent quality and prospective buyers are each provided with one said piece of said sample by said auction house.